IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION No. 3483 of 2007.

Shahaji Ganpatrao Bhosale ..Applicant.

Vs.

The State of Maharashtra ..Respondent.

Mr Shekhar A. Ingawale, Advocate for the applicant.

Ms S. D. Shinde, A.P.P for the State.

CORAM: V.C. DAGA,J.

DATED: 30TH OCTOBER, 2007.

P.C.:-

1. Heard learned counsel for the applicant and learned APP for the State.

2. Perused the application and material available on record.

3. The applicant is seeking bail under Section 439 of the Cr.P.C., arrested in C.R. No. 35 of 2007 registered with Panhala Police Station, for the offence punishable under Sections 302, 201 read with Section 34 of the I.P.C.

4. While opposing the bail application, learned A.P.P. has filed affidavit dated 30th October, 2007, duly affirmed by I.O. Mr. Waghmode; wherein, in paras 4 to 6, it is stated, as under:

4."I say that as the supplementary statement of father of the present applicant as well as statements of other witnesses wherein they have mentioned about the dispute between the applicant and the deceased. I say that the independent witnesses also stated that the name mentioned in the F.i.R. by the complainant i.e. the present applicant showing suspicion on Dnyanu Kamble etc. is purposely made by the applicant to misguide and mislead the investigating authority as the said Dnyanu Kamble is already dead and, therefore, his name is mentioned in the F.I.R. to mislead the track of the investigation."

5."I further say that there is extra judicial confession made by the present applicant in the form of interview given to the "B" channel and close relatives of the applicant, the witnesses have stated that in the said interview the applicant has confessed about the commission of the said offence and stated how the offence is committed."

6."I say that there is recovery of blood stained weapon "Parali" i.e. sickle as well as blood stained clothes at the instance of present applicant. I say that the post-mortem report shows about 12 incise wounds which are possible by the sharp and cutting object as per the opinion of the doctor."

5. The above observations clearly show that needle of suspicion was shown towards one Dnyanu Kamble, who was already dead on the date when the F.i.R. was lodged. The idea was to misguide and mis-direct the investigating agency. This alone is a strong suspicious circumstance against the complainant. The complainant by making false and misleading statement tried to save his own skin. The complainant and Dnyanu Kamble both were resident of adjoining village. It is

very difficult to digest that the complainant would be unaware of his death. This is a good example as to how guilty mind works.

6. Looking to the prima facie material available on record and for the reasons stated by the applicant, I am not inclined to grant bail.

7. For the reasons recorded herein as well as for the reasons recorded in the order dated 24.7.2007 by Bail Appln. No. 309 of 2007 by the learned Additional Sessions Judge, Kolhapur, while rejecting bail application, the present application stands rejected.

8. Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

9. In the result, application is rejected.

(V.C. DAGA,J.)